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HOUSE BILL 800

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO THE PESTICIDE CONTROL ACT; AMENDING THE DEFINITION OF PESTICIDE AS USED IN THAT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 76-4-3 NMSA 1978 (being Laws 1973, Chapter 366, Section 3, as amended) is amended to read:

"76-4-3. DEFINITIONS. -- As used in the Pesticide Control Act:

A. "equipment" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but does not include any pressurized hand-sized household device used by a homeowner to apply a pesticide or any equipment, device or contrivance of which the person who

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1 is applying the pesticide on his own land is the source of
2 power or energy in making the pesticide application;

3 B. "board" means the board of regents of New
4 Mexico state university;

5 C. "department" means the New Mexico department of
6 agriculture;

7 D. "device" means any instrument or contrivance
8 other than a firearm which is intended for trapping,
9 destroying, repelling or mitigating any pest or any other form
10 of plant or animal life, other than man and other than
11 bacteria, viruses or other microorganisms on or in any living
12 thing other than plants, but does not include equipment used
13 for the application of pesticides when sold separately
14 therefrom, or traps used to control predators or rodents or
15 sterilization using dry heat or steam;

16 E. "distribute" means to offer for sale, hold for
17 sale, sell, barter or supply in this state;

18 F. "environment" includes water, air, land, all
19 plant and every living thing [~~therein or thereon~~] and the
20 existing interrelationships;

21 G. "insect" means any of the numerous small
22 invertebrate animals belonging principally to the class
23 insecta, including but not limited to beetles, bugs, bees,
24 flies, and to other allied classes of arthropods, including
25 but not limited to spiders, mites, ticks, milipedes,

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1 centipedes and sowbugs;

2 H. "ingredient statement" means a statement which
3 contains the name and percentage of each ingredient of any
4 pesticide which is intended for one of the purposes under
5 Paragraphs (1) through (4) of Subsection N of this section,
6 and the total percentage of all ingredients in the pesticide
7 not for one of those purposes. If the pesticide contains
8 arsenic in any form, the ingredient statement shall contain a
9 statement of the percentages of total and water-soluble
10 arsenic, calculated as elemental arsenic;

11 I. "label" means the written, printed or graphic
12 matter on or attached to the pesticide or device or any of its
13 containers or wrappers;

14 J. "labeling" means all labels and all other
15 written, printed or graphic matter accompanying the pesticide
16 or device at any time; or to which reference is made on the
17 label or in literature accompanying the pesticide or device,
18 except to current official publications of the department, the
19 United States environmental protection agency, United States
20 departments of agriculture, [and] interior [~~the department of~~
21 ~~health, education and welfare~~] and health and human services,
22 state agricultural universities and other similar federal or
23 state institutions or agencies authorized by law to conduct
24 research in the field of pesticides;

25 K. "land" means all land and water areas,

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1 including air space, and all living things, all structures,
2 buildings, contrivances and machinery appurtenant thereto or
3 situated thereon, fixed or mobile, including any used for
4 transportation;

5 L. "person" has the extended meaning ascribed to
6 it in Subsection E of Section [~~12-2-2~~] 12-2A-3 NMSA 1978;

7 M "pest" means any living organism injurious to
8 other living organisms, except man, viruses, bacteria or other
9 microorganisms in or on other living organisms other than
10 plants, which the board by regulation declares to be a pest;

11 N. "pesticide" means any substance or mixture of
12 substances, other than consumer protection and health benefit
13 products such as disinfectants, sanitizers, germicides,
14 biocides and other substances labeled for use in areas in or
15 around household premises, intended for:

16 (1) preventing, destroying, repelling or
17 mitigating any pest;

18 (2) causing the leaves or foliage to drop
19 from a plant, with or without causing abscission;

20 (3) artificially accelerating the drying of
21 plant tissue; or

22 (4) accelerating or retarding the rate of
23 growth or rate of maturation, or for otherwise altering the
24 behavior of ornamental or crop plants or the produce thereof,
25 through physiological action, but not including substances

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1 that are intended as plant nutrients, trace elements,
2 nutritional chemicals, plant inoculants or soil amendments;

3 O. "pesticide dealer" means any person who
4 distributes highly toxic pesticides, restricted use pesticides
5 or both, which pesticides are restricted by regulation to
6 distribution only by licensed pesticide dealers;

7 P. "pest management consultant" means any
8 individual who offers or supplies technical advice or makes
9 recommendations to the user of highly toxic pesticides,
10 restricted use pesticides or both, which pesticides are
11 restricted by regulation to distribution only by licensed
12 pesticide dealers;

13 Q. "registrant" means a person who has registered
14 any pesticide pursuant to the provisions of the Pesticide
15 Control Act;

16 R. "restricted use pesticide" means any pesticide
17 or device designated by the board as requiring specific
18 restrictions to prevent unreasonable adverse effects on the
19 environment, including man, beneficial insect predators and
20 parasites, pollinating insects, animals, crops, wildlife and
21 lands but excluding the pests the pesticide or device is
22 intended to prevent, destroy, control or mitigate;

23 S. "unreasonable adverse effects on the
24 environment" means an unreasonable risk to man or the
25 environment, taking into account the economic, social and

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1 environmental costs and benefits of the use of any pesticide;

2 T. "noncommercial applicator" means a person who
3 uses or demonstrates restricted use pesticides and does not
4 qualify as a private applicator and is not required to have a
5 commercial applicator's license;

6 U. "private applicator" means a certified
7 applicator who uses or supervises the use of any pesticide
8 which is classified for restricted use for purposes of
9 producing any agricultural commodity on property owned or
10 rented by him or his employer or on the property of another
11 person if applied without compensation other than trading of
12 personal services between producers of agricultural
13 commodities;

14 V. "public applicator" means a certified
15 applicator who as an employee of a federal, state, county,
16 [city] municipal agency or municipal corporation uses or
17 supervises the use of any pesticide which is classified for
18 restricted use only by certified applicators or persons under
19 their direct supervision; and

20 W. "commercial applicator" means a certified
21 applicator, whether or not he is a private applicator with
22 respect to some uses, who for compensation uses or supervises
23 the use of any pesticide for any purpose on any property other
24 than as provided by [~~Section~~] Sections 76-4-19 [NMSA 1978 and
25 Section 8 of this act] and 76-4-20.1 NMSA 1978. "